

## REMARKS

Upon entry of this paper, claims 19 and 20 have been amended, no claims have been canceled, and no claims have been added as new claims. Thus, claims 1-27 and 44-52 are presently pending in this application. No new matter has been added.

Applicants gratefully thank the examiner for the indication of allowability of claims 45-49. In addition, applicants respectfully submit that all claims pending in the present application are allowable as described herein.

### **Claim Rejections under 35 U.S.C. §112**

Claims 19 and 20 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite. Applicants have amended claims 19 and 20 to more clearly refer to the “at least one microporous portion” as introduced in claim 1, from which claims 19 and 20 ultimately depend.

Accordingly, withdrawal of all 35 U.S.C. §112 rejections is respectfully requested.

### **Claim Rejections under 35 U.S.C. §102**

Claims 1, 2, 4-27, 44, and 50-52 were rejected under 35 U.S.C. §102(e) as being anticipated by US Patent Number 6,500,174 to Maguire, et al. (Maguire ‘174). This anticipatory rejection is respectfully traversed in view of the following remarks.

Applicants filed the pending application on October 1, 1999 and received an Official Filing Receipt confirming the filing date as stated. Maguire ‘174 was filed on November 5, 1999, almost one month *after* the filing of the pending application. Under 35 U.S.C. §102(e), a person shall be entitled to a patent unless “the invention was

described in — (1) an application for patent . . . by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent . . .” Maguire ‘174 was not filed before the filing date of the pending application, therefore cannot have been filed prior to the invention of the pending application. As such, Maguire ‘174 does not qualify as prior art under 35 U.S.C. §102(e), or under any other subsection of 35 U.S.C. §102.

As such, Applicants respectfully submit that this rejection under 35 U.S.C. §102(e) is improper. In light of the above comments, applicants respectfully submit that the claims of the present invention are not anticipated by, and are therefore in condition for allowance over, the cited document.

#### **Claim Rejections under 35 U.S.C. §103**

Claims 5, 21-23, and 51-52 were rejected under 35 U.S.C. §103 as allegedly being unpatentable over Maguire ‘174. This rejection is respectfully traversed in view of the following comments.

As stated previously, Maguire ‘174 does not qualify as prior art under 35 U.S.C. §102, thus this obviousness rejection is also improper. Applicants therefore respectfully submit that the claims of the present invention are not obvious with respect to, and are therefore allowable over, the cited document.

#### **Prior Rejections Are Withdrawn**

The Office Action indicates that Applicants’ arguments with respect to the claims are moot in view of the new grounds of rejection. There is no reference to, or maintenance of, the prior grounds of rejection. Under MPEP §707.07(e) and *Paperless Accounting, Inc. v. Bay Area Rapid Transit System*, 804 F.2d 659, 231 USPQ 649, a

requirements or rejection in a prior Office Action is withdrawn if the examiner does not repeat or refer to that requirement or rejection. In addition, the Maguire '174 reference was introduced subsequent to the submission of amendments by the Applicants in accordance with the Examiner's suggestions in a telephone interview. In that interview, the Examiner indicated that such amendments would make the claims allowable over the cited references at that time.

Accordingly, Applicants consider all rejections and objections to be either addressed or withdrawn upon filing of this Response. As such, all claims are now allowable, and action to that end is respectfully requested.

**Additional References**

Applicants are submitting herewith a Supplemental Information Disclosure Statement. Applicants have reviewed all references cited in the Supplemental IDS, and consider all pending claims to be allowable over the newly provided references.

### CONCLUSION

In view of the foregoing, it is respectfully submitted that this application is now in condition for allowance. Applicants courteously solicit allowance of the claims in the form of a Notice of Allowance. Should there be any outstanding issues of patentability following the entry of this response, a telephone interview is respectfully requested to resolve such issues.

Please charge any shortage or credit any overpayment of fees to our Deposit Account No. 12-0080. In the event that a petition for an extension of time is required to be submitted herewith, and the requisite petition does not accompany this response, the undersigned hereby petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized to be charged to the aforementioned Deposit Account. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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